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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/992,579	11/16/2001	Terrence Wolf	QUS 0101 PUS	8248

7590

12/04/2003

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EXAMINER

NGUYEN, KIMBERLY D

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 12/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/992,579

Applicant(s)

WOLF ET AL.

Examiner

Kimberly D. Nguyen

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other:

## **DETAILED ACTION**

### ***Amendment***

1. Acknowledgement is made of Response to Restriction filed 6 October 2003, wherein Applicants elect to prosecute Group I comprising claims 1-3, which drawn to the method of determining a price of a product or service under consideration by a purchaser from a vendor.

### ***Priority***

2. Acknowledgement is made for claiming priority benefit of Application serial no. 60/249,501, which filed 17 November 2000.

### ***Specification***

3. The disclosure is objected to because of the following informalities:

- Page 5, line 17: "formulae" should be changed to "formulas".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dejaeger et al. (US 6,456,981; hereinafter "Dejaeger") in view of Fajkowski (US 5,905,246).

Re claims 1 and 3: Dejaeger teaches a method for determining the price of a product or service under consideration by a purchaser from a vendor (see col. 8, lines 21-25), the method comprising the steps of:

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providing a device (i.e., retail system 10) that includes customer identification indicia (e.g., loyalty card;) and a bar code scanner (14 in fig. 2), and connects wirelessly (i.e., using wireless modem; see col. 24, lines 18-32) to a database (48, 50, 52, 54, 42, and/or 46; see fig. 1) (see col. 3, lines 51-65; col. 4, line 66 through col. 5, line 20; col. 5, line 58 through col. 6, line 9);

using the device to scan a bar code on a selected product/item or description of a service (col. 3, lines 59-65);

transmitting the bar code and customer identification indicia (i.e., product/customer related information from/to user profile) to the database (col. 5, line 58 through col. 6, line 63);

sending an opening signal to the device from the database, the signal being representative of discounts/promotions offered (col. 7, lines 14-43);

monitoring the device to learn what discounts are available on the selected and/or competing products (e.g., a "2 for the price of 1" sale on bottles of soda, etc; see col. 7, lines 28-32), the discounts appearing through display means (22 in fig. 2) associated with the device (i.e., retail system 10) (col. 3, lines 51-65; and col. 7, lines 14-43);

presenting customer identification indicia at a checkout location (see fig. 3; col. 5, lines 8-20; and col. 9, line 55 through col. 10, line 13);

communicating a closing signal between the checkout location and the database, the closing signal being provided to a module that computes a discount to all applicable purchases (i.e., completing the retail transaction such as calculating the total of the customer's items for purchase and printing a receipt and/or log off the terminal) (col. 5, line 58 through col. 6, line 43); and

updating the database with information about the customer's most recent purchases (col. 6, lines 44-64; and col. 9, lines 28-41).

Although, Dejaeger teaches products or services offered by companies or organizations other than retailer (e.g. the local real estate agent or mortgage company), the retailer may collect a fee for displaying the advertisements on the retail terminals (col. 7, lines 33-38). Dejaeger fails to teach the step of determining a reimbursement amount to be paid by the manufacturer to the vendor in proportion to the discounts/promotions applied by the vendor to the customer.

Fajkowski teaches a step of determining a reimbursement amount to be paid by the manufacturer to the vendor in proportion to the discounts/promotions applied by the vendor to the customer (col. 4, line 64 through col. 5, line 38; col. 23, lines 20-48).

It would have been obvious to an artisan of ordinary skill in the art at the time the invention was made to incorporate the well known electronically reimbursement from the manufacturer to the vendor as taught by Fajkowski to the teachings of Dejaeger in order to provide detail reports for store management concerning factors such as the total amount of each manufacturer's coupons redeemed (i.e., the amount the manufacturer should reimburse the retailer) (see Fajkowski, col. 5, lines 1-5).

Re claim 2: Dejaeger teaches the method, wherein the database 50 includes customer data files (i.e., user profiles; col. 6, lines 10-43), each having records that define a shopping history of one or more customers (i.e., record of items either purchased or inquired about by the customer, customer's purchasing habits and/or shopping frequency; see fig. 1; col. 6, line 44 through col. 7, line 13).

***Conclusion***

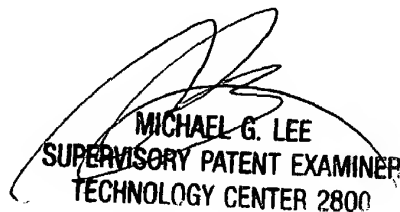
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nichtberger (US 4882675) teaches paperless system for distributing, redeeming and clearing merchandise coupons. Humble (US 4949256) teaches Coupon validation network with storage of customer coupon data for credit on future purchases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly D. Nguyen whose telephone number is 703-305-1798. The examiner can normally be reached on Monday-Friday 7:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on 703-305-3503. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-8792.

KDN  
20 November 2003

  
MICHAEL G. LEE  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800